IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2026

CORAM

THE HON'BLE MR JUSTICE C. SARAVANAN

W.P.No.19384 of 2023
and
W.M.P.Nos.18656 & 18658 of 2023

M/s. Refex Industries Limited,
Represemted by its Director,
Mr.Dinesh Kumar Agarwal,
11th Floor Bascon Futura IT Park,
Venkata Narayana Road,
T.Nagar, Chennai - 600017.

..Petitioner

Vs

1. Joint Commissioner of Income Tax (usd)
   O/o. Deputy Commissioner of Income Tax,
   Central Circle 3(4) Chennai,
   No.46, Mahatma Gandhi Road,
   Chennai – 600034.

2. Additional Commissioner of Income Tax,
   Central Range 3,
   Investigation Wing, Chennai – 600 006.

..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records on the file of the respondents and quash the impugned order in DIN No. ITBA/AST/M/147/ 2023-24/1053369453(1) dated 31.05.2023 for the assessment year 2016-17 passed by the 1st respondent as barred by limitation and in violation of procedure of the law.

For Petitioner	:	Mr.R.Sivaraman
For Respondents	:	Mr.A.P. Srinivas, Senior Standing Counsel.

ORDER

This Writ Petition is directed against the impugned Assessment Order dated 31.05.2023 for the **Assessment Year 2016-17**, passed under Section 147 of the Income Tax Act, 1961, as amended by the Finance Act, 2021.

2. The primary contention of the petitioner is that the notice issued under **Section 148** dated 29.07.2022 is without jurisdiction, as it was issued based on approval from the **Principal Commissioner of Income Tax (PCIT)**. For the relevant assessment year, since more than three years had elapsed, the mandatory sanction ought to have been obtained from the **Principal Chief Commissioner (PCCIT)** or **Principal Director General** as per the requirements of **Section 151(ii)** of the Act.

3. This Court, in a recent batch of cases including **D. Tamilselvi vs. The Income Tax Officer** (W.P.(MD) Nos. 30938 to 30940 of 2024, dated 29.10.2025), and similar matters involving **MGSR Hospitals and Service Apartments**, has held that any notice issued under Section 148 beyond the three-year period without the sanction of the specified higher authority under **Section 151(ii)** is *void ab initio* and lacks legal sanctity.

4. The legal position has been further clarified by the Hon'ble Supreme Court in **Union of India vs. Ashish Agarwal** and subsequent rulings, emphasizing that procedural safeguards under the new regime are mandatory and that a jurisdictional defect in obtaining approval cannot be cured.

5. In view of the above, the impugned Assessment Order dated 31.05.2023 is hereby set aside on this limited jurisdictional ground. The matter is remitted back to the first respondent with liberty to initiate fresh proceedings. The respondent is directed to issue a fresh notice under Section 148 only after obtaining the requisite approval from the competent authority under Section 151(ii), as was required under the Act as it stood between 01.04.2021 and the subsequent amendments in the Finance (No. 2) Act, 2024. Needless to state time between Section 148 notice filing of this writ petition and till the issuance of certified copy and a fresh period of 30 days shall be excluded for computing the limitation.

6. Upon obtaining valid sanction from the proper authority within the scope under Section 149 of the Income Tax Act, 1961 for issuance of notice under Section 148 of the Income Tax Act, 1961, the respondent shall

proceed to pass a fresh Assessment Order in accordance with the law within the limitation prescribed under Section 153 of the Income Tax Act, 1961, after providing the petitioner a fair opportunity of being heard.

7. Accordingly, this Writ Petition stands disposed of on the aforementioned terms. No costs. Consequently, connected miscellaneous petitions are closed.

02.02.2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

kmm

To

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Central Range 3,
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C.SARAVANAN, J.

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